

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

|                                             |   |                                 |
|---------------------------------------------|---|---------------------------------|
| <b>JERRY TRULL, <i>et al.</i>,</b>          | ) |                                 |
|                                             | ) |                                 |
| <b>Plaintiffs,</b>                          | ) |                                 |
|                                             | ) |                                 |
| <b>vs.</b>                                  | ) | <b>Civil Case No. 1:02cv243</b> |
|                                             | ) |                                 |
| <b>DAYCO PRODUCTS, LLC., <i>et al.</i>,</b> | ) |                                 |
|                                             | ) |                                 |
| <b>Defendants.</b>                          | ) |                                 |
| _____                                       | ) |                                 |
| _____                                       | ) |                                 |
|                                             | ) |                                 |
| <b>JOYCE RIGGS, <i>et al.</i>,</b>          | ) |                                 |
|                                             | ) |                                 |
| <b>Plaintiffs,</b>                          | ) |                                 |
|                                             | ) |                                 |
| <b>vs.</b>                                  | ) | <b>Case No. 1:05cv91</b>        |
|                                             | ) |                                 |
| <b>DAYCO PRODUCTS, LLC., <i>et al.</i>,</b> | ) |                                 |
|                                             | ) |                                 |
| <b>Defendants.</b>                          | ) |                                 |
|                                             | ) |                                 |
| _____                                       | ) |                                 |
| _____                                       | ) |                                 |

**THIS MATTER** is before the Court on the parties’ joint motion for preliminary approval of a class action settlement agreement, proposed class notice, proposed Class Action Fairness Act (CAFA)

notice, proposed notice of election and waiver, proposed letter to the class and for consolidation of the above captioned cases. Having reviewed the submissions of the parties, the Court finds the motion should be granted in its entirety. The Court also specifically finds that the Settlement Agreement is fair, reasonable and in the best interests of all class members in both of these cases.

## **ORDER**

**IT IS, THEREFORE, ORDERED** as follows:

1. The above captioned cases are consolidated for purposes of settlement.
2. The Settlement Agreement (attached as Exhibit 1 to the Memorandum in Support of the Motion for Preliminary Approval of Settlement Agreement and a Motion for Consolidation of Cases (hereinafter "Memorandum")) is preliminarily approved as being fair, reasonable, and in the best interests of all class members.
3. The proposed form of "Notice to Appropriate Federal and State Officials of Proposed Settlement" (attached as Exhibit 3 to the

Memorandum) is approved as being in compliance with the requirements of the Class Action Fairness Act.

4. For the purposes of this case the appropriate state and federal officials to receive notice of the proposed settlement are the Attorney General for the United States of America, the Attorneys General for the States of North Carolina, Georgia, Florida, South Carolina, Alabama, Tennessee and Washington.
5. Defendant Mark IV Industries, Inc. ("Mark IV") shall, on or before ten days from December 18, 2006, mail by first class United States Mail, postage prepaid, copies of Exhibit 3 to such state and federal officials.
6. The proposed form of "Important Notice About Health Care Benefits For Dayco Products Retirees and their Surviving Spouses and Dependents" (attached as Exhibit 4 to the Memorandum), is approved as being in compliance with the requirements of Rule 23 of the Federal Rules of Civil Procedure.
7. The proposed manner of giving notice to class members, which shall consist of mailing a copy of Exhibit 4 to the Memorandum to the last known address of each such class member in the

records of Mark IV, is approved as being reasonable and consistent with due process.

8. Defendant Mark IV shall, on or before December 31, 2006, mail by first class United States Mail, postage prepaid, a copy of Exhibit 4 to the Memorandum to each class member at his or her last known address.
9. The form of the proposed "Notice of Election and Waiver of Claims" (attached as Exhibit 2 to the Memorandum), including notice of election options with respect to the "Silver Care," "Steelworkers program" or "VEBA<sup>1</sup>" plans and "the cash payment option", as defined in the Settlement Agreement, is approved as being fair, reasonable, and in the best interests of all class members. The parties are authorized to mail this form to class members listed on Attachment F of the Settlement Agreement prior to the fairness hearing and solicit elections prior to the Court's final ruling under Fed. R. Civ. P. 23(e)(1)(C).
10. For good cause shown and in order that affordable coverage

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<sup>1</sup>Voluntary Employees' Beneficiary Association pursuant to Section 501(c)(9) of the Internal Revenue Code.

can be offered on or before April 1, 2007, each class member electing to remain or enroll in the Silver Care Plan or Steelworkers program/VEBA plan is deemed to have released and covenanted not to sue with respect to all claims for UHC coverage as well as any claims based on differences in coverage among the plans in the event that upon any appeal of this Court's final judgment the Fourth Circuit reverses this Court's final judgment.

11. For good cause shown, and in order that class members can be informed about their Class Counsel's and Union's support of the Settlement Agreement, the Letter to the Class (Exhibit 5 to the Memorandum) is approved as fair, reasonable, and in the best interest of all class members.
12. The Court will hold a hearing at the United States Courthouse, 100 Otis Street, Asheville, North Carolina on March 2, 2007, at 10:00 a.m. for the purpose of considering any objections to the Settlement Agreement and to determine whether the Court should finally approve the Settlement Agreement.
13. Any class member having objections to the proposed Settlement

Agreement shall file such objections in writing with the Clerk of the Court, United States District Court, Western District of North Carolina, 100 Otis Street, Asheville, North Carolina 28801 and serve a copy of such objections on counsel for all parties. All such objections must be postmarked on or before February 1, 2007.

14. Any person failing to file or serve objections within the time period specified above shall waive such objections.
15. On or before February 23, 2007, the parties shall file their joint motion for final approval of the Settlement Agreement, including their responses to any objections which may have been filed and served, and a proposed form of final order.

Signed: December 20, 2006

A handwritten signature in black ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

